

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
DECEMBER 13, 2006**

CALL TO ORDER A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Charles Lapp, Gordon Cross, Kathy Robertson, Jeff Larsen, Kim Fleming and Don Hines. Frank Dekort, Randy Toavs, and Gene Dziza had excused absences. Rebecca Shaw, Annie Thompson and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 30 people in the audience.

PUBLIC REVIEW Jeff Larsen reviewed the public hearing process.

**PUBLIC
COMMENT**
*(not related to
agenda items)*

None.

**PRELIMINARY
PLAT/
LANDING AT
SOMERS BAY
FPP 06-56**

A request by RLD Waterside, LTD for Preliminary Plat approval of The Landing at Somers Bay, a twelve (12) unit condominium project on 3.97 acres along Somers Bay on Flathead Lake. All lots in the subdivision are proposed to have neighborhood water and public sewer systems. The property is located at 5585 US Highway 93.

STAFF REPORT Rebecca Shaw reviewed Staff Report FPP 06-56 for the Board.

**BOARD
QUESTIONS**

Robertson asked to see what might be in the floodplain on the map.

Shaw pointed it out on the map, and said it would only be a small part by the lake.

Cross asked what she thought the park land money should be dedicated to.

Shaw said it should be part of the Somers Beach area.

Lapp asked what was going on with the zoning district.

Shaw said it was in the public comment period.

Harris said they approved the interim zoning district, which triggers a 30-day public comment period; they passed the resolution of intent. Once the 30 days is over, it will become an official interim zoning district.

Cross asked if they were somewhere in that 30-day period.

Harris said yes, December 28th.

APPLICANT

Bruce Lutz represented RLD Waterside. He introduced two of the owners, Patrick Brewer and Worth Williams, and said he brought John Thomas from A2Z Engineering and Robert Noble to answer questions. He said the project was looked at in June and it didn't get very far. He said the new project is nothing like the old one. They have had a lot of interaction with the neighborhood who seem to approve. He showed, on the map, where the bike trail, timber growth, access points, driveways, landscaping, cul-de-sacs, paving, and shoreline protection would be. Lutz said the cul-de-sacs would work well for normal travel as well as emergency travel. He said another thing different about this project from the original are the trees, grass crete, and the landscaping would be native in nature. He showed the closest the buildings would be from the water was 40-ft. He said they tried to disperse the driveways to help with the run-off water. There are a total of eight structures, four of them being two-family structures. He said they intend to have a common area that will be open to all of the residents. Lutz said he enjoyed working with the neighborhood and feels like they have come up with a better plan then they originally had.

Hines asked if the applicants intended to live on the property.

Lutz said they both intend to own a unit.

AGENCIES

None present. *Written comments were received from the Superintendent of Schools, Environmental Health, DNRC, Address Coordinator and Fish, Wildlife & Parks.*

**PUBLIC
COMMENT**

Kenneth Torgerson said he was in favor of the subdivision and that the developers had been very easy to work with.

Bob Fraser wanted to comment on the developers, builders, and the staff on their ability to work with the neighborhood to come up with a plan that works for everyone. He commented on the zoning and said the developers have done everything to keep within those limits. He said the developers could be held up as "poster children" for how they handled the project. He supports the project 100%.

Joe Orr, 5655 Hwy 93 S, he said they went from a situation of conflict to agreement and acceptance because of how the developers and neighborhood worked together. He hopes the project will get approved by the Planning Board and the Commissioners.

**STAFF
REBUTTAL**

Shaw said on page 9, findings-of-facts # 2 needed to be changed from "pending R2 zoning" to "permanent R2 zoning."

**APPLICANT
REBUTTAL**

Jon Thomas, A2Z Engineering, wanted to discuss what Shaw said about the 2500 gallon per unit storage facility requirement; condition 15. Thomas said it was a miscommunication with the DNRC because they were not aware they planned on putting in a dry hydrant. He said in lieu of having a 2500 storage facility they want to put in a dry hydrant.

Cross asked about if Thomas designed the storm water drainage.

Thomas said no, Roger Noble designed it.

Cross said he could see where the chambers are and asked if they were intended to catch any storm drainage that occurs closer to the lake.

Noble said it was designed with a series of storm drain inlets connected to the pipe of the main storm drain chamber. All the storm water and roof water would go different places. It then goes into a sump pump that gets pumped back into the storm deck unit. He said it would pick up 100% of storm drainage. He said the remainder would be collected in a detention swale that is 10-ft wide and 6 inches deep. He then discussed how they were going to keep from polluting the lake by removing the nitrate and phosphate from the water. He said the average storm water contains .04 nitrate and they would be improving that before the water gets to the lake. He said it an innovated system and there is only one other in the Flathead Valley at this time.

**BOARD
DISCUSSION**

None.

MAIN MOTION

Robertson made a motion seconded by Fleming to adopt Staff Report FPP 06-56 as findings of fact and recommended approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Cross asked if this application had come in, after zoning is established, if it would have to be a full PUD application.

Harris said yes; it would require something. He said the Commissioners have approved a interim district zoning and that you can't set up temporary zoning on top of a permanent zoning.

Cross asked him to explain.

Harris said when you set up a PUD it is permanent zoning. Interim zoning is good for one year and could be continued for another year; two years is the maximum. The whole intent of the interim zoning is to create some sort of zoning while you study and decide what kind of permanent zoning to have; it is kind of a "holding zone". Harris said he wouldn't get hung up on that because they evaluate the proposal at the time of sufficiency, and they can't change the rules in the middle of

it. Once they consider the application sufficient, the rules shouldn't be changed. Harris said the neighbors and staff are happy with this development.

Cross asked about the legal status of the development standards.

Shaw said it was more of a CC&R thing and that's what they agreed to with the neighbors.

Cross said if it was a PUD it would be legally enforced.

Lutz said they committed to that and it will be part of the CC&R's so it will be binding.

Robertson asked if the structures can't be any closer than 40-ft from the high water mark.

Lutz said yes.

Fleming asked about the dry hydrant Thomas had discussed.

Shaw said they should strike the words after DRNC in condition #15.

**MOTION TO
AMEND
CONDITION #15**

Motion by Fleming, seconded by Robertson to amend condition fifteen to read: "The applicant shall comply with reasonable fire suppression and access requirements of the Somers Fire District and the Montanan DNRC. ~~including installation of a 2,500 gallons per unit water storage facility. Such facility would be maintained entirely and kept in a constant state of readiness by the local subdivision.~~ A letter from the Chief stating requirements have been met shall be submitted with the final plat materials."

Motion carried by quorum.

**MOTION TO
REMOVE
CONDITION #18**

Lapp made a motion, seconded by Robertson to remove condition #18.

Motion carried by quorum.

**MOTION TO ADD
CONDITION #28**

Robertson made a motion, seconded by Cross to add condition #28 to read: All structures shall have a minimum 40 foot setback from the high water mark.

Motion carried by quorum.

**MOTION TO ADD
CONDITION #29**

Robertson made a motion seconded by Hines to add condition #29 to read: Only native vegetation shall be used as buffer including grasses, shrubs and trees.

Motion carried by quorum.

**BOARD
DISCUSSION**

Hines asked where the dry hydrant was going to be located on the property.

Thomas showed them where the hydrant would be and said they would consult the DNRC to find out where the best spot would be for the hydrant.

Hines asked if the residents would be willing to let other people use the hydrant.

Thomas said it would depend on where the hydrant is placed.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

**PRELIMINARY
PLAT/
BLACKBERRY
FPP 06-57**

A request by Loren Charles Kauffman for Preliminary Plat approval of Black Berry Subdivision, a nineteen (19) lot single-family residential subdivision on 32.96 acres. Lots in the subdivision are proposed to have five shared wells and one multiple-user well and individual septic systems. The property is located at 1224 Lake Blaine Road.

STAFF REPORT

Rebecca Shaw reviewed Staff Report FPP 06-57 for the Board.

**BOARD
QUESTIONS**

None.

APPLICANT

Joe Kauffman, of Big Sky Surveying, represented Charles Kauffman. He said the average density for the subdivision is 1.68 acres. He thinks it adds up to the land surrounding the development. He said they are ok with the public water system, although the original idea was to minimize cost; water systems are very expensive. He discussed Subdivision 186, which is west of this subdivision. He said subdivision 186 has a 60-ft easement for utility purposes. He said they are proposing a new 60-ft easement across Clark's property and said they have a letter from the Clark's saying they would grant approval for the easement, mainly to be used for emergency use. Kauffman said it wasn't their intent to have the easement used for emergency use only. He discussed the shape of the property. Kauffman said he was anxious to hear what the neighbors had to say about the property and the subdivision. He said there will be other issues that come up. He said they tried to mix it up a bit with different size parcels.

Cross asked about the timber and wood retention and asked if there would be covenants as to how many trees could be cut.

Kauffman said they haven't discussed it with their developer yet.

Robertson said she went to the site and spoke with some of the neighbors many of which had no idea what was going on.

AGENCIES

None present. *Written comments received from Creston Fire Department, DNRC, and Flathead County Health.*

**PUBLIC
COMMENT**

Ken Siderius, 1288 Foothill Rd, moved into the area in 1990 and said the Kauffman's are great neighbors. He has some concerns about the whole subdivision sloping into one area; where there is a meadow there is water. He said the density of the subdivision is not the same as the bordering land. He said he doesn't want to stop the subdivision but he thinks there are way too many houses for the amount of land. He is concerned about the water drainage. He said it is a great wildlife area and said the last time it was logged was 1938. He wouldn't have any objection if there were only 7 or 8 houses, but 19 is too many.

Paul Murray, 110 Deer Crossing, had the same view as Ken about the density. He said he is a builder and isn't opposed to growth. He discussed the access road. He is concerned about the amount of traffic and said if he would have known he was going to be part of a 19-lot subdivision he wouldn't have built where he did.

Roger Marcinet, 113 Deer Crossing, said he isn't opposed to the subdivision, but the density is too high. He said they were not contacted as neighbors about the proposed subdivision and he is concerned about the traffic and new road going in. He wants to see emergency travel only on the secondary access road.

Don Murray, of Crowley Law Firm, was there on the behalf of Stan and Katherine Converse. He said the family wanted to make it clear that it isn't their purpose to thwart Kauffman's subdivision; they just want a chance to make things work for the neighborhood. He said 3 things stood out: traffic, water supply, and easements for secondary access. He said one of the conditions is to obtain an approach permit from the road department and said Kauffman should find out if that's even a possibility before the plat continues. He said the sanitarian's suggestion to have a public water system was a good idea and doesn't think they could pass this subdivision without it. He said the Planning Board doesn't have a plan for water supply system in front of them. He said Kauffman doesn't have approval for the secondary easement and thinks it is necessary he gets that approval before moving on with the subdivision. He wants to postpone the hearing until Kauffman can get the rest of the things he needs. Murray thanked the Planning Board for their work on the Growth Policy.

Barbara Kauffman, a teacher, said this subdivision isn't what any of the kids want for their Dad's land but none of the kids can buy out the land. She said the land was appraised as farm land. She said they were advised that smaller lots would be more appealing to people than larger lots. She said they would like to get the estate taken care of and do what's right for the kids and the neighbors.

Stan Converse, 33 Whitetail Meadows, believes in development and thinks there is a “win-win” situation for everyone. He wants the Kauffman’s to benefit from this subdivision, but he doesn’t think they’ve had enough time as a neighborhood to discuss the subdivision. He believes everyone should at least be informed about what is going on. He said the proposed subdivision’s density is greater than what exists in the immediate surroundings. He is also concerned about the septic system and ground water. He said there is a lot of ground water in that neighborhood, especially after the spring run off. When he bought his land, he knew it was a possibility that a large subdivision would go in next to him. He said they aren’t completely opposed, but they are opposed to the density of the subdivision.

Brian Launius, Envirotech Consulting, had three main issues he wanted to discuss. He said the groundwater issue would be addressed by the Health Department and the DEQ. He said that to supply plans for a water system before a plat approval would be an enormous expense, and that the planning board and commissioners do not have the education to review those plans anyways. He said that storm water issues are another DEQ thing.

Jim Hodges, represented Whitetail Meadows H.O.A., said they don’t object to the subdivision. He said they are concerned about the density and whether or not the subdivision would have CC&R’s. He said all of their homes look right into the proposed development. He said he thinks they should have some sort of control and CC&R’s for the subdivision.

Warren Kauffman, from Alaska, thought their subdivision was what the County was looking for regarding future development. He said they aren’t trying to step on anybody’s toes.

Kevin Fox, 44 Whitetail Meadows, said they have 23 5-acre lots. He said they have a major issue with the water pooling and destroying the road. He said one of the major reasons they bought where they did was because of the school. They live about 1-½ miles from the school. He is concerned about the traffic and the roads. He would love to see another bike path all the way to the school. He is not opposed to the development he just has concerns. He wished they would have been notified sooner.

Katie Kauffman, 1224 Lake Blaine Road, is concerned about the traffic also. She said the choice to develop the land was a hard decision and she wants to do what is best for the neighborhood. She said they do plan on having CC&R.

Larsen asked if the Planning and Zoning office sent out notification letters.

Shaw said yes, but the problem is that it's such a long, skinny piece of property that they were not very many people within 150 feet to notify.

Larsen asked how many parcels were notified.

Shaw said 18.

Larsen said the letters were sent certified mail and asked if we legally advertised this.

Harris said yes. He said it has been discussed in the past to post a notice on the property.

Larsen asked if that was a requirement by law.

Harris said no.

**STAFF
REBUTTAL**

Shaw said many people touched on the density situation, but the property is unzoned so there are no controls on that. She also wanted to clarify the secondary road. She said it is not secondary; it is a second road and is required because of the length of the property. If the road doesn't happen, the development won't happen. She said the letter from Clark that says he is willing to give an easement will only cover part of the road.

Cross asked about the letter from Clark.

Shaw said it should have been in the packet.

**APPLICANT
REBUTTAL**

Kauffman said the public has spoken and they think the density is too high for the area. He said it is hard to know what the neighbors want until they get into a public hearing. He said in regards to the high water, they have a test pipe on lot 13 and of September 7 there was no indication of water. He does not feel like this is too dense of a development. He said that some people did not get the certified letter on time because of Thanksgiving weekend. He said all seven children are in agreement with the way it is proposed. He asked that condition #13 be changed from 19 lots to 18 lots because one of the lots already has a well. He said changing the 30-ft easement to a 60-ft easement would not be a problem.

Larsen asked if they would object to a public water system.

Kauffman said they were fine with that. He said they have a lot of road to put in and pave, and said the majority of the traffic is going to go straight out.

Lapp asked where the two bottom lots accessed from.

Kauffman said those lots are not developed yet.

Cross asked if the two lot owners were part of the Kauffman family.

Kauffman said yes.

**MOTION
(TO DISCUSS)**

Hines made motion, seconded by Robertson to discuss some of the issues on the application.

**BOARD
DISCUSSION**

Hines said because of the lack of a water system and the lack of involvement from the neighbors, he thinks that they should redo some parts and bring it back to the Planning Board at a later date.

Robertson's first inclination was denial, and said it's obvious that they don't really know what they are doing. She said the easement isn't in place and she is totally opposed to the density. She said the average lot size is 1.63 acres, which is about half the size of surrounding lots.

Lapp asked Shaw if she could look into why they need full access.

Shaw said the law requires multiple accesses into a subdivision.

Lapp said when he looks at the subdivision, what's proposed is in the documentation; everything needed is in the application. He said it is very upsetting when neighbors with small lots come in and say they don't want neighbors with small lots. He said Subdivision 186 has small lots, which is a neighboring subdivision. Lapp said as far as functionality, this subdivision is an ideal size.

Fleming thinks the proposal will be far denser than what is currently in the area. She thinks there should be fewer lots and a different road design. Also, it would be helpful to have CC&R's to get a better sense of what they will do. She said she probably will not support the subdivision if the applicant does not agree to an extension.

Cross said the secondary access bothers him. It is awkward and he sympathizes with landowners who thought they were buying into a four-lot subdivision, now possibly having 19 lots accessing through their property. He said with fewer lots, the road would be shorter and preclude the need for an easement. He also said road maintenance will be problematic as multiple subdivisions would be involved.

Lapp said easements will likely be required to other properties in new subdivisions. He said it is critical to realize what is happening with easements. He said when an easement is granted, and more property is subdivided, it will cause problems. He said when easements for future connection are required, they can become secondary accesses for other subdivisions and the new lot owners will not want easements to remain.

Larsen said projects are conditionally approved and those requirements are fulfilled before final plat. He said they have to ask if the project meets the requirements and if the impacts can be mitigated. He said if we think it can do this, we should approve; if we don't feel those impacts can be mitigated, we should deny. He asked the applicant if they were willing to postpone or if they want the Planning Board to go on with a vote.

Harris said the applicant had several options. He said the Planning Board can vote, and then it can go onto the Commissioners, or they can postpone it. He said if it is denied, the applicant can do a midcourse correction and only be charged half fees to make the necessary changes. Harris said if it is withdrawn, the applicant has to start over with full review and fees. He said if the Board takes no action, then it must still be forwarded to the Commissioners unless the applicant agrees to waive the time limit.

Larsen said the Board will act on it tonight.

Kauffman said he is willing to work the neighbors and said a midcourse correction is the option the applicant would like to pursue. He wants to work with everyone on the public water system and appropriate density. One of the owners indicated his willingness to work with neighborhood on lighting and timber management.

Shaw requested a letter from applicant to waive time requirements.

**MOTION
(wait until
applicant ready)**

Fleming made a motion seconded by Robertson to continue the proposal. The applicant would need to submit a letter waiving the review time.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

None.

**PRELIMINARY
PLAT/
GREAT
NOTHERN ACRES
FPP 06-54**

A request by Steve Johnson for Preliminary Plat approval of Great Northern Acres, a four (4) lot major single-family residential subdivision on 8.37 acres. Lots in the subdivision are proposed to have individual water and septic systems. The property is located at the intersection of Pleasant Valley Road and Idaho Hill Road in Marion. Larsen stepped down from this project; Hines presided.

STAFF REPORT

Anne Thompson reviewed Staff Report FPP 06-54 for the Board.

**BOARD
QUESTIONS**

Hines asked if it was a stage one or stage two environmental study.

Thompson said it was a stage one.

APPLICANT	Greg Stevens, represented Steve Johnson, said they are in general agreement with the report created by staff. He said 17 government agencies were contacted regarding this application. In the summary of findings, the application is compliant with the subdivision regulations and staff is recommending approval. He also said there have been no negative neighbor comments. He said the subdivision is compliant with the Flathead County Master Plan. He said the density fits with the surrounding area and continued to discuss the subdivision access at length.
AGENCIES	None.
PUBLIC COMMENT	None.
STAFF REBUTTAL	None.
APPLICANT REBUTTAL	None.
MAIN MOTION	Robertson made a motion seconded by Cross to adopt Staff Report FPP 06-54 as findings of fact and recommended approval to the Board of County Commissioners.
BOARD DISCUSSION	Lapp said he wanted to amend condition # 11.
MOTION TO AMEND CONDITION #11	<p>Lapp made a motion seconded by Fleming to amend condition #11 to read: House numbers shall visible from the road. Road signs should be metal, with 4-inch reflective lettering.</p> <p>The motion passed unanimously.</p>
BOARD DISCUSSION	Fleming commented about condition #13.
MOTION TO ADD CONDITION #17	<p>Robertson made a motion seconded by Fleming to add condition #17 to read: There shall be no further subdivision of any lots.</p> <p>Stevens said he does not want that. He said they are large lots that are easily accessible.</p> <p>Cross said it was a standard condition.</p> <p>The motion passed unanimously.</p>

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

Cross said he has two things. He wants to see something change with extension letters. He thinks they should be on hand. He also wants to see density information in the staff report.

Robertson said she can not see the easel very well from where she sits.

NEW BUSINESS

Fleming commented about what was said about sharing the water hydrant.

Harris said next Wednesday, the Hungry Horse subdivision is coming up, and it is one of the highest intensity subdivisions the Planning Board has seen in a long time.

Cross asked about having workshops when things are that large.

Harris said it is the applicant's responsibility to hold workshops if they want them.

Lapp said sometimes a workshop is necessary. He asked if they requested a workshop with the Planning Board if they would be able to have one.

Harris said yes.

The Planning Board discussed workshops at length.

ADJOURNMENT

The meeting was adjourned at 9:03 p.m. on a motion by Robertson seconded by Hines. The next meeting will be held at 6:00 p.m. on December 20, 2006.

Jeff Larsen, President

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 1/10/07